

### **REMARKS**

Claims 1-17 and 20-28 were pending in this application. Upon entry of this Amendment, Claims 1-14 and 16-28 will be cancelled and new Claim 29 will be added. Thus, upon entry of this Amendment, Claims 15 and 29 will be pending in this case.

Claims 15 and 24 are objected to on the basis that they are dependent upon Claim 1, and Claim 1 is described as a non-elected claim. In response, Applicants have amended Claim 15 to stand in independent form. Applicants believe the objection is therefore overcome.

Claims 15 and 24 stand rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter of the invention, arguing that Claims 15 and 24 depend from Claim 1, and further alleging that Claim 1 is confusing and ambiguous.

Applicants respectfully traverse this ground of rejection on the basis that the Examiner has not set forth a prima facie case for why Claim 1 is confusing and/or ambiguous. The Office Action provides no reasoning as to why this might be so, stating only an unsupported conclusion. Applicants respectfully assert that they are entitled to a much better well-reasoned rejection or to withdrawal the rejection.

By way of response, Applicants have amended Claim 15 to stand in independent form by adding the elements of Claim 1 into Claim 15. If the Examiner intends to reject Claim 15 in a subsequent Office Action, Applicants respectfully request that the Examiner point out with particularity why Claim 15 is believed to be confusing and ambiguous.

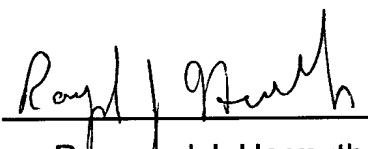
Claims 15 and 24 stand rejected under 35 U.S.C. Section 102(b) as being anticipated by WO 97/45737 ("Heinrich et al"). The Office Action alleges that Heinrich et al. teach a method of identifying a compound for inhibiting USP-ecdysone receptor complex for insecticidal identification (referring to pages 2 and 4-5 of the reference). The Office Action alleges that Heinrich et al disclose a vector comprising DNA encoding USP (referring to pages 11-12 of the reference).

Applicants respectfully point out that the pending claims are directed to isolated nucleic acid encoding Usp of *Heliothis virescens*. This is clearly pointed out in numeric identifiers <120> and <213> of the Sequence Listing provided in this case. This clearly makes the present claims novel over Heinrich et al., which only discloses a screening assay using Usp from *Drosophila melanogaster*. The *Drosophila* gene is not encompassed by the claims of the present invention.

Applicants have also added Claim 29 to more fully claim the present invention. Support for newly added Claim 29 may be found, among other places, in the claims as originally filed.

Applicants believe the claims are in condition for allowance. Review and reconsideration of the claims and allowance is respectfully requested.

Respectfully submitted,

By   
Raymond J. Harmuth  
Attorney for Applicants  
Reg. No. 33,896

Bayer CropScience LP  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3916  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
s/rmc/rjh/0177